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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.160 of 2007

Date of decision:9.1.2007

M/S Atam Valves P.Ltd. ...Petitioner

Versus

The Addl.Commissioner of Income Tax, Range-II, Jalandhar &

others ...Respondent

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Akshay Bhan, Advocate for the petitioner.

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JUDGMENT

RAJESH BINDAL, J.

Petitioner has approached this Court praying for issuance of a writ of Certiorari seeking quashing of assessment proceedings for the assessment year 2005-06.

Briefly the facts are that petitioner is a private limited company carrying on its business in the manufacture and export of Atam brand gun metal, bronze, brass, S.S.C.L.C.S.forged steel valves, cocks & boiler mountings. A survey under Section 133A of the Income Tax Act, 1961(for short "the Act') was carried out at the business premises of the Company on September 27, 2005. During the course of survey, certain books of account and documents were impounded. The income tax return for the assessment year 2005-06 corresponding to previous year ending on March 31, 2005 was filed by the petitioner on 17.8.2005. After filing of the return, the petitioner

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was issued a notice under Section 143(2) of the Act on December 26, 2005 for clarification of certain points in connection with the return of income. The contention of the petitioner is that case of the petitioner has wrongly been selected for scrutiny, which is in violation of instructions for selection of cases as contained in Annexure P-11, which provides certain guidelines for selection of cases for scrutiny during the financial year 2005-06. The instructions, inter-alia, provide that cases where survey has been conducted shall be compulsorily scrutinised. We do not find any merit in this contention of the petitioner that the survey having been conducted after the close of the previous year, the assessment for that year could not be taken up for scrutiny. There is no such bar under the provisions of the Act or even the instructions sought to be relied upon by the petitioner. We further find that the petitioner had raised an objection to that effect before the Assessing Officer, which was rejected vide order dated January 25, 2006 (Annexure P-10), which is not impugned in the present writ petition filed nearly after one year of the order. It is further contended by the petitioner that in case anything had been found by the respondents during the course of survey after the previous year was already over, the same could be used in proceedings under Sections 147/148 of the Act and not during the course of regular assessment.

The contention is patently misconceived. The petitioner having filed his return of income, the Assessing Officer has the authority to proceed with the assessment in terms of Section 143 of the Act and for that notice was issued to the petitioner on December 26, 2005 seeking clarification on certain points in connection with return of income. Any information which has come into the possession of the Department before the assessment is complete can very well be used even during proceeding of regular assessment under Section 143 of the Act and an assessee can have a grouse only in case the principles of natural justice are violated and the material sought to be relied upon against the petitioner is not confronted and not otherwise. In the present case, no such grouse is made out by the petitioner. It is needless to add that whatever material the respondents have found

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during the course of survey, which may be pertaining to the assessment year in question, will be confronted to the petitioner.

Petitioner has not prejudiced in any manner whatsoever by framing of regular assessment. In fact from the conduct of the petitioner it is evident that he wants to scuttle the investigation in this case as on earlier occasion also, the petitioner approached this court by filing Civil Writ Petition No.6037 of 2006 challenging the order whereby case of the petitioner was assigned to another Assessing Officer, and failed.

In view of our above discussions, we do not find any merit in the petition and accordingly dismiss the same in limine.

(M.M.Kumar)
Judge

January 09,2007 **(Rajesh Bindal)**
Pka **Judge**